

ORDINANCE NUMBER O- 21162 (NEW SERIES)

DATE OF FINAL PASSAGE JAN 08 2020

AN ORDINANCE AMENDING CHAPTER 11, ARTICLE 3
DIVISION 1 OF THE SAN DIEGO MUNICIPAL CODE BY
AMENDING SECTION 113.0103; AND BY AMENDING
CHAPTER 14, ARTICLE 3, DIVISION 1 BY AMENDING
SECTIONS 143.0145 AND 143.0146, RELATING TO
DEVELOPMENT REGULATIONS FOR SPECIAL FLOOD
HAZARD AREAS.

WHEREAS, the Legislature of the State of California has conferred upon local governments the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry, including regulations governing development within the floodplain and flood-prone areas; and

WHEREAS, the City of San Diego (City) has established regulations governing management of and development within the floodplain and flood-prone areas in San Diego Municipal Code sections 143.0145 and 143.0146; and

WHEREAS, the Federal Emergency Management Agency (FEMA) administers the National Flood Insurance Program (NFIP), which aims to reduce the impact of flooding on private and public structures by providing insurance to property owners, renters, and businesses, and by encouraging communities to adopt and enforce floodplain management regulations; and

WHEREAS, the NFIP is a voluntary program that enables participating communities to purchase insurance against flood losses and to receive FEMA funding in exchange for adopting and enforcing regulations that reduce future flood damage, on the condition that a participating community's floodplain management regulations meet or exceed the NFIP minimum requirements; and

WHEREAS, FEMA conducts routine Community Assistance Visits to flood-prone areas in order to provide communities with the most current information about the NFIP and to assess whether local communities' floodplain management regulations are meeting the minimum requirements of the NFIP; and

WHEREAS, in November 2017, FEMA identified several components of the City's floodplain management regulations that need revision in order to comply with the minimum requirements of the NFIP; and

WHEREAS, City staff has worked with FEMA to incorporate the required revisions to its floodplain management and development regulations; NOW, THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. That Chapter 11, Article 3, Division 1 of the San Diego Municipal Code is amended by amending section 113.0103, to read as follows:

§113.0103 Definitions

Abutting property through Solid fence [No change in text.]

Special Flood Hazard Area or SFHA, means any area inundated during a *base flood* as shown on the Federal Insurance Rate Map as Zone A, AO, A1-30, AE, A99, AH, VO, V1-30, VE, V, M, or E (also referred to as the 100-year *floodplain*).

Specified anatomical areas through Yard [No change in text.]

Section 2. That Chapter 14, Article 3, Division 1 of the San Diego Municipal Code is amended by amending sections 143.0145 and 143.0146 to read as follows:

§143.0145 Development Regulations for Special Flood Hazard Areas

(a) Purpose and Intent.

- (1) The Legislature of the State of California has conferred upon local governments the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry, including regulations governing *development* within *Special Flood Hazard Areas*.
 - (2) It is the intent of the City that these regulations shall not create liability on the part of the City, any officer or employee of the City, or the Federal Emergency Management Agency (FEMA), for any *flood* damages that result from reliance on this chapter or any associated administrative decision lawfully made.
 - (3) These regulations are not intended to repeal, abrogate, or impair any existing ordinances, easements, covenants, or deed restrictions. However, where these regulations conflict or overlap with another ordinance, easement, covenant, or deed restriction, the more stringent shall prevail.
- (b) *Special Flood Hazard Areas* within the City of San Diego are established in accordance with the report titled "*Flood Insurance Study*, San Diego County, California," dated June 16, 1999 and the accompanying *Flood Insurance Rate Maps (FIRM)*, published by FEMA, on file in the office of the City Clerk as Document Nos. 18910-1 and 18910-2, including any supplements, amendments, and revisions which are properly promulgated by FEMA or the Federal Insurance Administrator.

- (c) For the purpose of sections 143.0145 and 143.0146, the City Engineer is the designated Floodplain Administrator and shall administer, implement, and enforce these regulations.
- (d) The degree of *flood* protection required by this section 143.0145 and section 143.0146 is based on scientific and engineering considerations, and is considered reasonable for regulatory purposes. Larger *floods* can and will occur on rare occasions. It is possible that increased *flood* heights may result from man-made or natural causes. This section 143.0145 and section 143.0146 do not imply that land outside a *Special Flood Hazard Area* or uses permitted within such areas will be free from *flood*ing or *flood* damages.
- (e) The Floodplain Management FEMA Definitions in the Land Development Manual Appendix S apply to the provisions of this section 143.0145 and section 143.0146. For purposes of this section 143.0145 and section 143.0146, if there is a conflict between the definitions in Appendix S and any other definitions in the San Diego Municipal Code, the definitions in Appendix S shall apply.
- (f) The following development regulations and all other applicable requirements and regulations of FEMA apply to all *development* proposing to encroach into a *Special Flood Hazard Area*, including both the *floodway* and *flood fringe* areas, or that does not qualify for an exemption pursuant to section 143.0110(c).
- (g) *Floodways*

(1) through (6) [No change in text.]

(7) Within the Coastal Overlay Zone, no *structure* or portion thereof shall be erected, constructed, converted, established, altered, or enlarged, or no landform alteration *grading*, placement, or removal of vegetation, except that related to a pre-*FIRM* historic and ongoing agricultural operation, or land division shall be permitted, provided:

(A) through (B) [No change in text.]

(h) *Flood Fringe*. The applicable *development* regulations are those in the underlying zone, subject to the following supplemental regulations:

(1) Within the *flood fringe* of a *Special Flood Hazard Area*, permanent *structures* and *fill* for permanent *structures*, roads, and other *development* are allowed only if the following conditions are met:

(A) through (D) [No change in text.]

(E) There will be no significant adverse water quality impacts to downstream wetlands, lagoons or other *sensitive biological resources*, and the *development* is in compliance with the requirements and regulations of the National Pollution Discharge Elimination System Permit, as implemented by the City of San Diego.

(F) [No change in text.]

(2) [No change in text.]

§143.0146 Supplemental Regulations for Special Flood Hazard Areas

All proposed *development* in a *Special Flood Hazard Area*, including *substantial improvements*, is subject to the following requirements and all other applicable requirements and regulations of FEMA. The *applicant* for each *development* project, including applicants for *substantial improvement* projects, shall obtain the federal and state permits required by 44 C. F. R. § 60.3(a)(1), as may be amended.

(a) *Development* and Permit Review

(1) through (7) [No change in text.]

(8) The *applicant* shall obtain, keep, and make available for inspection by the City Engineer the following *certifications*:

(A) *certification* required for *lowest floor* elevations; and

(B) *certification* required for elevation or *floodproofing* of nonresidential *structures*.

(b) Standards for *Subdivisions*

(1) through (6) [No change in text.]

(c) Standards of Construction

In all *Special Flood Hazard Areas*, the following standards apply for all *development*.

(1) through (10) [No change in text.]

(11) All new construction and *substantial improvements* of *structures* with fully enclosed areas below the *lowest floor*, excluding *basements*, that are usable solely for parking of vehicles, building access, or storage, and which are subject to *flooding*, shall be

designed to automatically equalize hydrostatic *flood* forces on exterior walls by allowing for the entry and exit of floodwater as required by 44 C. F. R. § 60.3(c)(5), as may be amended. Designs for meeting this requirement must be *certified* by a registered professional engineer or architect, or meet or exceed the following minimum criteria:

- (i) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to *flooding* shall be provided;
- (ii) The bottom of all openings shall be no higher than one foot above *grade*; and
- (iii) Openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of floodwater.

(d) Standards for *Manufactured Homes*

All new and replacement *manufactured homes* and additions to *manufactured homes* are subject to the following regulations.

(1) through (3) [No change in text.]

- (4) Within *Special Flood Hazard Areas*, the placement or installation of *manufactured homes* shall comply with the standards for coastal high hazard areas in section 143.0146(g).

(e) Standards for Utilities

[No change in text.]

(f) Standards for Recreational Vehicles

(1) [No change in text.]

(2) All recreational vehicles placed in *Special Flood Hazard Areas* shall comply with one of the following:

(A) through (C) [No change in text.]

(g) Standards for Coastal High Hazard Area

(1) A coastal high hazard area is an area of special *flood* hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms. It is subject to high velocity waters, including coastal and tidal inundation. The area is designated on a *FIRM Zone* V1-30, VE, or V.

(2) Within coastal high hazard areas, *FIRM Zones* V1-30, VE, and V, the following standards shall apply:

(A) through (F) [No change in text.]

(h) [No change in text.]

(i) If a *development* changes the *base flood* elevations due to physical alterations, the permit *applicant* shall be required to submit technical or scientific data to FEMA for a Letter of Map Revision (LOMR) within 6 months of information becoming available or project completion, whichever comes first.

Section 3. That a full reading of this ordinance is dispensed with prior to passage, a written copy having been made available to the Council and the public prior to the day of its passage.

Section 4. That this ordinance shall take effect and be in force on the thirtieth day from and after its final passage, except that the provisions of this ordinance applicable inside the Coastal Overlay Zone, which are subject to California Coastal Commission jurisdiction as a City of San Diego Local Coastal Program amendment, shall not take effect until the date the California Coastal Commission unconditionally certifies those provisions as a local coastal program amendment.

Section 5. That prior to becoming effective, this ordinance shall be submitted to the San Diego County Regional Airport Authority (SDCRAA) for a consistency determination.

Section 6. That if the SDCRAA finds this ordinance consistent with the Airport Land Use Compatibility Plan(s) (ALUCPs) for San Diego International Airport, Marine Corps Air Station Miramar, Gillespie Field, Montgomery Field, and Brown Field Airports (collectively, Airports), this ordinance shall take effect and be in force on the thirtieth day from and after the finding of consistency, or on the thirtieth day after its final passage, whichever is later, except that the provisions of this ordinance inside the Coastal Overlay Zone, which are subject to California Coastal Commission jurisdiction as a City of San Diego Local Coastal Program amendment, shall not take effect until the date the California Coastal Commission unconditionally certifies those provisions as a local coastal program amendment.

Section 7. That if the SDCRAA determines that this ordinance is inconsistent or conditionally consistent, subject to proposed modifications, with the ALUCP(s) for the Airports, the ordinance shall be submitted to the City Council for reconsideration.

Section 8. That if the SDCRAA determines that this ordinance is conditionally consistent with the ALUCP(s) for the Airports, but that consistency is subject to proposed modifications, the City Council may amend this ordinance to accept the proposed modifications, and this ordinance as amended shall take effect and be in force on the thirtieth day from and after its final passage, except that the provisions of this ordinance as amended inside the Coastal Overlay Zone, which are subject to California Coastal Commission jurisdiction as a City of San Diego Local Coastal Program amendment, shall not take effect until the date the California Coastal Commission unconditionally certifies those provisions as a local coastal program amendment.

Section 9. That a proposed decision by the City Council to overrule a determination of inconsistency or to reject the proposed modifications for a finding of conditional consistency shall include the findings required pursuant to Public Utilities Code section 21670 and require a two-thirds vote. The proposed decision and findings shall be forwarded to the SDCRAA, the California Department of Transportation Division of Aeronautics, and the airport operators for the Airports. The City Council shall hold a second hearing not less than forty-five days from the date the proposed decision and findings were provided, at which hearing any comments submitted by the public agencies shall be considered and a final decision to overrule a determination of inconsistency shall require a two-thirds vote.

Section 10. That if the City Council makes a final decision to overrule a determination of inconsistency, this ordinance shall take effect and be in force on the thirtieth day from and after that final decision, except that the provisions of this ordinance inside the Coastal Overlay Zone, which are subject to California Coastal Commission jurisdiction as a City of San Diego


Local Coastal Program amendment, shall not take effect until the date the California Coastal Commission unconditionally certifies those provisions as a local coastal program amendment.

Section 11. That no permits shall be issued for development that is inconsistent with the provisions of this ordinance unless complete applications for such permits are submitted to the City prior to the date on which the applicable provisions of this ordinance become effective.

Section 12. That Ordinances O-21118, O-21114, O-21115, O-21116, O-21117 and O-2020-64 have been recently considered by the City Council; that Ordinances O-2020-60, O-2020-65, and O-2020-66 will be considered concurrently by the City Council; and that Ordinances O-2020-9, O-2020-3 will be considered by the City Council in the near future which amend San Diego Municipal Code sections also amended by this Ordinance; therefore, the City Clerk, with the written approval and concurrence of the City Attorney, is authorized to reconcile the numbering of sections and placement of text within these sections upon the final passage of the Ordinances, without further action by the City Council, pursuant to San Diego Charter section 275.

APPROVED: MARA W. ELLIOTT, City Attorney

By



Davin A. Widgerow
Deputy City Attorney

DAW:nja
12/02/19
Or. Dept: Transportation & Storm Water Dept.
Attachment
Doc. No.: 1950385_10

I hereby certify that the foregoing Ordinance was passed by the Council of the City of
San Diego, at this meeting of JAN 07 2020.

ELIZABETH S. MALAND
City Clerk

By


Deputy City Clerk

Approved:

1/8/2020

(date)


KEVIN L. FAULCONER, Mayor

Vetoed:

(date)

KEVIN L. FAULCONER, Mayor

STRIKEOUT ORDINANCE

OLD LANGUAGE: ~~Struck-Out~~

NEW LANGUAGE: Double Underline

ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

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§113.0103 Definitions

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Special Flood Hazard Area or SFHA, means any area inundated during a *base flood* as shown on the Federal Insurance Rate Map as Zone A, AO, A1-30, AE, A99, AH, VO, V1-30, VE, V, M, or E (also referred to as the 100-year *floodplain*).

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(a) Purpose and Intent.

- (1) The Legislature of the State of California has conferred upon local governments the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry, including regulations governing development within *Special Flood Hazard Areas.*

- (2) It is the intent of the City that these regulations shall not create liability on the part of the City, any officer or employee of the City, or the Federal Emergency Management Agency (FEMA), for any flood damages that result from reliance on this chapter or any associated administrative decision lawfully made.
- (3) These regulations are not intended to repeal, abrogate, or impair any existing ordinances, easements, covenants, or deed restrictions. However, where these regulations conflict or overlap with another ordinance, easement, covenant, or deed restriction, the more stringent shall prevail.
- (ab) *Special Flood Hazard Areas* within the City of San Diego are established in accordance with the report ~~entitled~~ titled "*Flood Insurance Study, San Diego County, California,*" dated June 16, 1999 and the accompanying *Flood Insurance Rate Maps (FIRM)*, published by ~~the Federal Emergency Management Agency (FEMA)~~ FEMA, on file in the office of the City Clerk as Document Nos. 18910-1 and 18910-2, including any supplements, amendments, and revisions which are properly promulgated by FEMA or the Federal Insurance Administrator.
- (bc) For the purpose of ~~S~~sections 143.0145 and 143.0146, the City Engineer is the designated Floodplain Administrator and shall administer, implement, and enforce these regulations.
- (ed) The degree of *flood* protection required by this section 143.0145 and section 143.0146 ~~is considered reasonable for regulatory purposes and is~~

based on scientific and engineering considerations, and is considered reasonable for regulatory purposes. Larger *floods* can and will occur on rare occasions. It is possible that increased *flood* heights may result from man-made or natural causes. This section 143.0145 and section 143.0146 ~~do~~ does not imply that land outside a *Special Flood Hazard Area* or uses permitted within such areas will be free from *flooding* or *flood* damages. ~~This section shall not create liability on the part of the City, any officer or employee thereof, or the FEMA, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made there under.~~

- (e) The Floodplain Management FEMA Definitions in the Land Development Manual Appendix S apply to the provisions of this section 143.0145 and section 143.0146. For purposes of this section 143.0145 and section 143.0146, if there is a conflict between the definitions in Appendix S and any other definitions in the San Diego Municipal Code, the definitions in Appendix S shall apply.
- (df) The following development regulations and all other applicable requirements and regulations of FEMA apply to all *development* proposing to encroach into a *Special Flood Hazard Area*, including both the *floodway* and *flood fringe* areas, or that does not qualify for an exemption pursuant to ~~S~~section 143.0110(c);
- (eg) *Floodways*
 - (1) through (6) [No change in text.]

- (7) Within the Coastal Overlay Zone, no *structure* or portion thereof shall be erected, constructed, converted, established, altered, or enlarged, or no landform alteration *grading*, placement, or removal of vegetation, except that related to a pre-FIRM historic and ongoing agricultural operation, or land division shall be permitted, provided:

(A) through (B) [No change in text.]

- (fh) *Flood Fringe*. The applicable *development* regulations are those in the underlying zone, subject to the following supplemental regulations:

- (1) Within the *flood fringe* of a *Special Flood Hazard Area*, permanent *structures* and *fill* for permanent *structures*, roads, and other *development* are allowed only if the following conditions are met:

(A) through (D) [No change in text.]

- (E) There will be no significant adverse water quality impacts to downstream wetlands, lagoons or other *sensitive biological resources*, and the *development* is in compliance with the requirements and regulations of the National Pollution Discharge Elimination System Permit, as implemented by the City of San Diego.

(F) [No change in text.]

- (2) [No change in text.]

§143.0146 Supplemental Regulations for Special Flood Hazard Areas

All proposed *development* within a *Special Flood Hazard Area*, including substantial improvements, is subject to the following requirements and all other applicable requirements and regulations of FEMA. The applicant for each development project, including applicants for substantial improvement projects, shall obtain the federal and state permits required by 44 C. F. R. § 60.3(a)(1), as may be amended.

(a) *Development and Permit Review*

(1) through (7) [No change in text.]

(8) The applicant shall obtain, keep, and make available for inspection by the City Engineer the following certifications:

(A) certification required for lowest floor elevations; and

(B) certification required for elevation or floodproofing of nonresidential structures.

(b) *Standards for Subdivisions*

(1) through (6) [No change in text.]

(c) *Standards of Construction*

In all *Special Flood Hazard Areas*, the following standards apply for all *development*.

(1) through (10) [No change in text.]

(11) All new construction and substantial improvements of structures with fully enclosed areas below the lowest floor, excluding basements, that are usable solely for parking of vehicles, building access, or storage, and which are subject to flooding, shall be

designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater as required by 44 C. F. R. § 60.3(c)(5), as may be amended. Designs for meeting this requirement must be *certified* by a registered professional engineer or architect, or meet or exceed the following minimum criteria:

- (i) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to *flooding* shall be provided;
- (ii) The bottom of all openings shall be no higher than one foot above *grade*; and
- (iii) Openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of floodwater.

(d) Standards for *Manufactured Homes*

All new and replacement *manufactured homes* and additions to *manufactured homes* are subject to the following regulations.

(1) through (3) [No change in text.]

- (4) Within ~~*FIRM Zones V1-30, VE, and V*~~ *Special Flood Hazard Areas*, the placement or installation of *manufactured homes* shall comply with the standards for coastal high hazard areas in ~~§~~ section 143.0146(g).

(e) Standards for Utilities

[No change in text.]

(f) Standards for Recreational Vehicles

(1) [No change in text.]

(2) All recreational vehicles placed in ~~*FIRM Zones A1-30, AE and AH*~~ *Special Flood Hazard Areas* shall comply with one of the following:

(A) through (C) [No change in text.]

(g) Standards for Coastal High Hazard Area

(1) A coastal high hazard area is an area of special *flood* hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms ~~or seismic sources~~. It is ~~an area~~ subject to high velocity waters, including coastal and tidal inundation ~~or tsunamis~~. The area is designated on a *FIRM Zone* V1-30, VE, or V.

(2) Within coastal high hazard areas, *FIRM Zones* V1-30, VE, and V, the following standards shall apply:

(A) through (F) [No change in text.]

(h) [No change in text.]

(i) If a *development* changes the *base flood* elevations due to physical alterations, the permit *applicant* shall be required to submit technical or scientific data to FEMA for a Letter of Map Revision (LOMR) within 6 months of information becoming available or project completion,

whichever comes first. All LOMR's for *flood* control projects are
~~approved prior to the issuance of Building Permits. Building Permits shall
not be issued based on Conditional Letters of Map Revision.~~

DAW:nja

11/22/19

Or. Dept: Transportation & Storm Water Dept.

Doc. No.: 1950388_9

Passed by the Council of The City of San Diego on JAN 07 2020, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Barbara Bry	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jennifer Campbell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Ward	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Monica Montgomery	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vivian Moreno	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Georgette Gómez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage JAN 08 2020.

AUTHENTICATED BY:

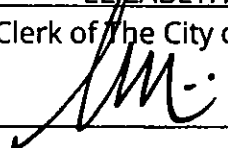
(Seal)

KEVIN L. FAULCONER

Mayor of The City of San Diego, California.

ELIZABETH S. MALAND

City Clerk of The City of San Diego, California.

By , Deputy

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on

DEC 17 2019

JAN 08 2020

, and on _____.

I FURTHER CERTIFY that said ordinance was read in full prior to passage or that such reading was dispensed with by a vote of five members of the Council, and that a written copy of the ordinance was made available to each member of the Council and the public prior to the day of its passage.

(Seal)

ELIZABETH S. MALAND

City Clerk of The City of San Diego, California.

By , Deputy

Office of the City Clerk, San Diego, California

Ordinance Number O- 21162